

Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (Text with EEA relevance)

CHAPTER V

**OBLIGATIONS REGARDING INVESTMENT COMPANIES**

SECTION 1

**Conditions for taking up business**

*Article 27*

Access to the business of an investment company shall be subject to prior authorisation to be granted by the competent authorities of the investment company's home Member State.

Member States shall determine the legal form which an investment company must take.

The registered office of the investment company shall be situated in the investment company's home Member State.

*Article 28*

No investment company may engage in activities other than those referred to in Article 1(2).

*Article 29*

1 Without prejudice to other conditions of general application laid down by national law, the competent authorities of the investment company's home Member State shall not grant authorisation to an investment company that has not designated a management company unless the investment company has a sufficient initial capital of at least EUR 300 000.

In addition, when an investment company has not designated a management company authorised pursuant to this Directive, the following conditions shall apply:

- a the authorisation must not be granted unless the application for authorisation is accompanied by a programme of operations setting out, at least, the organisational structure of the investment company;
- b the directors of the investment company must be of sufficiently good repute and be sufficiently experienced also in relation to the type of business pursued by the investment company and, to that end: the names of the directors and of every person succeeding them in office must be communicated forthwith to the competent authorities; the conduct of an investment company's business must be decided by at least two persons meeting such conditions; and 'directors' shall mean those persons who, under the law or the instruments of incorporation, represent the investment company, or who effectively determine the policy of the company; and
- c where close links exist between the investment company and other natural or legal persons, the competent authorities must grant authorisation only if those close links do not prevent the effective exercise of their supervisory functions.

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The competent authorities of the investment company's home Member State shall also refuse authorisation if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the investment company has close links, or difficulties involved in their enforcement, prevent the effective exercise of their supervisory functions.

The competent authorities of the investment company's home Member State shall require investment companies to provide them with the information they need.

2 Where an investment company has not designated a management company, the investment company shall be informed, within six months of the submission of a complete application, whether or not authorisation has been granted. Reasons shall be given whenever an authorisation is refused.

3 An investment company may start business as soon as authorisation has been granted.

4 The competent authorities of the investment company's home Member State may withdraw the authorisation issued to an investment company subject to this Directive only where that company:

- a does not make use of the authorisation within 12 months, expressly renounces the authorisation or has ceased the activity covered by this Directive more than six months previously, unless the Member State concerned has provided for authorisation to lapse in such cases;
- b has obtained the authorisation by making false statements or by any other irregular means;
- c no longer fulfils the conditions under which authorisation was granted;
- d has seriously or systematically infringed the provisions adopted pursuant to this Directive; or
- e falls within any of the cases where national law provides for withdrawal.